

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15899 of Robert Thomas, pursuant to 11 DCMR 3108.1, for a special exception under Paragraph 732.1(d) to establish a youth rehabilitation home of eight residents and a rotating staff on the first through third floors in a C-2-A District at premises 716-18 I Street, S.E. (Square 904, Lot 870).

HEARING DATE: December 8, 1993
DECISION DATE: January 5, 1994

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property that is the subject of this application is located at 716-718 I Street, S.E. The property is improved with a three-story residential structure. It is zoned C-2-A.

2. The C-2-A District permits matter of right low density development, including office, retail and all kinds of residential uses, to a maximum floor area ratio (FAR) of 2.5 with nonresidential uses limited to 1.5 FAR, a maximum height of 50 feet, and a maximum lot occupancy of 60 percent for residential uses. A youth rehabilitation home for one to 20 persons, not including resident supervisors and their families, is allowed in a C-2-A District with Board approval.

3. The site abuts a 30-foot wide public alley to the rear. Square 904 in which the site is located is zoned C-2-A. Structures found in this square, including properties adjoining the subject site on both sides, are being used for residential purposes. The existing three-story structures along 8th Street are predominantly used for neighborhood-type commercial purposes. The U.S. Marine Barracks is located across 8th Street to the east of Square 904. The Ellen Wilson Dwellings are located to the west on 7th Street, S.E. This residential development is now vacant and boarded up. Across I Street to the south is open space and "The Southeast-Southwest Freeway".

4. The applicant proposes to use the three-story rowhouse type dwelling at the site for a youth rehabilitation home to provide group home services for eight juveniles in furtherance of the requirements of Order B, Objective 15, of the Jerry M. Consent Decree.

5. The property at 716-718 I Street is currently used as a residential building. This three story house is equipped with six bedrooms, two full bathrooms, a kitchen, living room and dining

room, and laundry facilities. It will provide living space for the eight youths.

The contiguous structure at 712-714 I Street is proposed to be used for offices, counseling rooms, recreation room and a learning center. The rear yards of both structures are enclosed within the same fence. The proposed use of 712-714 I Street may be established as a matter of right in the C-2-A District.

6. The proposed youth home will be under the management of Sasha Bruce Youthwork, Inc. ("Sasha Bruce"). Sasha Bruce operates 11 programs in the city which are aimed at runaway and homeless youth, high-risk families, teenage mothers and babies. Programs are operated out of Evans and Elliott Junior High Schools. These programs are aimed at preventing substance abuse and AIDS. Sasha Bruce also offers programs for young people who are homeless, from 16 to 21 years old.

7. According to Sasha Bruce, its program objectives are to: (1) Assess the individual and the family environment; (2) Devise a comprehensive treatment plan that includes goals for each young person and the family; and (3) Educate the clients about their African-American culture.

8. Sasha Bruce seeks to accomplish its program objectives in a "homelike" environment. In such an environment, Sasha Bruce provides for the residents' basic needs (i.e. nutritional, disciplinary and education), and recreational needs. In addition, Sasha Bruce is utilizing an educational program that is based on a flexible learning system, in which youth are taught on an individual basis by a certified teacher. Further, Sasha Bruce provides art therapy to teach young persons how to express themselves; life group sessions to educate youth about jobs, employment, and health; individual counseling; and family counseling.

9. The applicant is proposing to establish a 24-hour youth rehabilitation home for eight clients/residents between eight and 17 who would be referred from the D.C. Youth Services Administration of the D.C. Department of Human Services. Sasha Bruce has a contract with the D.C. Government to provide such a facility.

10. Twelve full-time and part-time employees would work at the facility during three rotating shifts. The applicant indicated that the employees would include one house director, nine counselors, one educational director and one cook, for a total of 12 persons. A minimum of two staff members would be available on-site at all times. It is anticipated that the maximum number of staff at the premises would not exceed six persons at any one time.

11. The applicant indicated that there is vehicular access to the subject property through a 30-foot wide public alley at the rear. Two parking spaces can be accommodated at the rear of the property. The site is located four and one-half blocks from the Eastern Market Metrorail Station. In addition, metrobus service is available at the south corner of the subject square. Accordingly, the applicant is capable of meeting the parking requirement of the Zoning Regulations.

12. The Administrator of Youth Services Administration (YSA) of the Department of Human Services testified in support of the application from the position of the District on housing detained youths who have not been found guilty or have not been adjudicated by the court. She testified that there are a number of children who need to be housed in other types of facilities for reasons out of the control of the child or because the court wants to make sure the child will appear for court.

She testified that approximately 46 percent of the children who are arrested should not be housed at Oak Hill or the Receiving Home. Some of these children have parents who do not care enough to pick them up from the Police Department, or the police might find that the home condition of the child does not warrant the child being returned home. She stated that it is more often found that youths who are arrested and waiting adjudication are more neglected and abused than those already adjudicated and determined to be delinquent. Placement of these youths must be in a safe environment and one that will provide for their needs including an education. When it is time for a youth to come before a court for adjudication, the youth will be available. The court after adjudication, many times will place a youth who is a property offender in a shelter. She testified that youths are often placed in shelters not only because of the alleged criminal offense, but also because of home conditions. She stated that this is why a shelter is distinct from a group home.

She testified that a group home has children who have been adjudicated and committed to the Department of Human Services, Youth Services Administration (YSA) because they were found to be involved in criminal activity. She stated that the Sasha Bruce program would house detained youths who have only been charged and arrested. Often when they come to court for adjudication, they are sent home because they were found to not have been involved and were inappropriately held. A committed youth is placed in a group home when it is appropriate.

She stated that a classification of risk assessment had been developed by her office to determine which youths should be placed in the community. Risk assessment considers matters such as: a) The type of family support; b) Whether the child is peer-driven or

makes individual decisions; c) Whether there is a substance abuse problem in the family; d) Whether the youth reasonably and consistently attends school; e) Performance in school, and; f) Whether there are prior adjudicated offenses and what kind. She indicated that the judge determines whether a youth is sent to a shelter following a risk assessment by a YSA screening team. The risk assessment and decision by the judge is made in less than 24 hours during which the youth stays in the Receiving Home. She further stated that once a youth is placed, the normal period a youth stays is six months.

She indicated that Sasha Bruce is a staff-intense program where the program itself is security for the youth by providing sufficient staff, therapeutic programs, recreation and physical education programs and special education. She further testified that YSA has its own environmental and health inspector who will visit this site as well as their other facilities on a monthly basis and will provide a written report to her.

13. By memorandum dated December 1, 1993, the Office of Planning (OP), recommended conditional approval of the application. OP stated that it is not aware of any other property containing a community-based residential facility for five or more persons in the same square or within a radius of 500 feet from any portion of the subject property.

OP stated that the Zoning Regulations provide that a youth rehabilitation home in a C-2-A District may be approved by the Board for one to 20 persons. In this case, the proposed facility would accommodate eight persons.

OP stated that the Zoning Regulations require that the applicant provide one parking space for a community-based residential facility for eight persons. Two spaces can be provided on site.

OP stated that the applicant would be required to comply with District of Columbia Licensing requirements for the operation of the youth rehabilitation home. Compliance with the code and licensing requirements would be ascertained by the Department of Consumer and Regulatory Affairs prior to the issuance of a certificate of occupancy.

OP stated that it referred this application to the following District of Columbia government agencies:

- A. Department of Public Works;
- B. Department of Fire and Emergency Medical Services;
- C. D.C. Metropolitan Police Department

- D. Department of Human Services; and
- E. Coordinator of Consent Decree/Coordinator, Office of the Coordinator of Community-Based Residential Facilities.

The Office of Planning did not receive correspondence from any of the aforementioned District government agencies prior to completion of its report.

OP is of the opinion that the applicant's proposal is in harmony with the general purpose and intent of the Zoning Regulations and Map. The proposed youth rehabilitation home will provide a positive environment for detained and committed youths. It is anticipated that the proposed home would be beneficial to the City and that its operation would not negatively impact the surrounding neighborhood in terms of traffic, noise, operations, or the number of similar facilities in the area.

Therefore, OP recommends approval of the application with the following conditions:

- A. The approval shall be for a period of three years.
- B. The total number of clients/residents shall not exceed eight at any given time.
- C. The number of staff on the premises shall not exceed six persons at any one time (nor be less than two persons to provide supervision to the residents and to respond to emergencies).
- D. The grounds of the facility shall be kept free of refuse and debris and shall be properly maintained. Landscaping shall be maintained in good condition.
- E. There shall be no loitering outside of the premises by facility residents, employees or visitors.
- F. Sasha Bruce Youthwork, Inc. shall provide the residents of the area with the telephone number of an appropriate contact person who can be reached on a 24-hour basis to report any problems with any activity or conditions at the subject facility.
- G. Sasha Bruce Youthwork, Inc. shall establish and maintained community liaison with ANC 6B to discuss and resolve any problems that may arise from time to time regarding the operation of the facility.

- H. Parking for two automobiles shall be provided on the site.
- I. Night lighting shall be provided on the exterior of the premises but shall not illuminate neighborhood properties.
- J. Trash shall be picked up from the premises weekly.
- K. The facility shall meet the District of Columbia's fire, safety and health code requirements.

14. By memorandum dated November 22, 1993, the Office of Community-Based Residential Facilities (CBRF), informed OP that it supports the application, noting that the facility meets the objectives of the Jerry M. Consent Decree.

15. By memorandum dated December 2, 1993, the Department of Public Works (DPW), recommended that at least one off-street parking space be provided on the site of the proposed youth rehabilitation home. The site is located in the 700 block of I Street, S.E., which is a collector street with Residential Parking Permit (RPP) restrictions on both sides of the street. Eighth Street is a minor arterial with metered parking. Seventh Street is a local street with two-hour (RPP) parking restrictions. G Street has no "apparent" parking restrictions. DPW indicated that the area is well-served with the Eastern Market Metrorail Station within two blocks, and that 8th Street is a major metrobus route.

16. By report dated November 22, 1993, Advisory Neighborhood Commission (ANC) 6B, voted to support the application and cited security and supervision to prevent "walk aways" as a concern of the community.

At the hearing, the ANC representative requested and was granted by the Board a waiver of the seven-day filing requirement of 11 DCMR 3307.1 to submit a revised ANC report dated December 7, 1993. The ANC reconsidered its previous vote to support the application and went on to vote to oppose the application for the following reasons:

- A. This facility will have a negative impact on nearby properties due to its operations. Commercial activity on Eighth Street, S.E., has been experiencing tremendous problems, partially due to the economy, but particularly because of actual increased criminal activity and the perception of increased criminal activity. There was widespread consensus by nearby property owners that this facility would add to those negative perceptions and reduce their abilities to obtain and retain commercial tenants.

- B. The applicant alleged that there would be limited impact on residential properties, because the property is zoned C-2-A. However, there is a proposal to create a residential community of both public and private housing a half block away. The Ellen Wilson Dwellings will contain between 134 and 268 residential units. There are several residential units already on the same square even though it is commercially zoned. Within five blocks of the property, there are four other public housing projects, consisting of several hundred additional units (Arthur Capper, Carrolsburg, Potomac Gardens, and Hopkins House dwellings).
- C. Sasha Bruce Youthwork, the organization that would administer this facility, has a good reputation in the community, because of the success of its other programs. However, it cannot prevent its residents from walking away from this facility and causing crime problems nearby. A representative from Sasha Bruce indicated that they will keep the residents busy in a structured setting, but there was no specific security system discussed.
- D. The representative indicated that Sasha Bruce Youthwork will not handle serious offenders. However, it does not have control over the selection of residents. If the District wishes to empty its current high security facility in Prince George's County, it could send some of these residents to this facility and the applicant would not be able to do much about it. The ability or desire of Sasha Bruce Youthwork to turn away "inappropriate" residents is unclear.
- E. Ward 6 already has much more than its share of residential and other facilities geared toward assisting youths who are at risk. As one Commissioner suggested, the District should "share the wealth."
- F. This is a poor location. There is a great deal of drug dealing, prostitution, panhandling, vagrancy and general rowdiness in the immediate vicinity. It will be difficult to keep residents away from these problems.
- G. The Commissioner for the single member district indicated that he spoke to many residents about this case and that no one he contacted has spoken in favor of the application.

The Single Member District (SMD) representative of ANC-6B10 appeared at the hearing and objected to the second ANC-6B report dated December 7, 1993 stating that the report was improperly acted

upon by the ANC. The SMD representative supported the application and presented police crime reports for an approximate two-year period, related to existing facilities operated by Sasha Bruce. The representative concluded that crime associated with Sasha Bruce facilities is very low.

The applicant also objected to the second ANC-6B report opposing the application.

The Board left the record open at the conclusion of the hearing to receive a further explanation from ANC-6B of its December 7, 1993 report. The ANC responded by letter dated December 14, 1993. Responses from the representative of ANC/SMD 6B10 and applicant to the ANC's December 14, 1993 letter were received into the record.

17. One witness who resides at 1508 East Capitol Street, N.E., appeared at the hearing to testify in support of the application. She mentioned that Sasha Bruce had done a tremendous job in the community in terms of managing their facilities.

18. A second witness who resides at 1326 East Capitol Street, N.E. also testified that Sasha Bruce Youthwork, Inc. does a good job of managing their facilities.

19. The applicant submitted into the record a letter from neighbors at 1312 East Capitol Street in support of the application.

20. A written statement in support of the application was submitted to the Board on December 8, 1993, by Mr. Craig Lisk.

21. A number of residents and commercial property owners appeared at the hearing to voice opposition to the application. They were primarily concerned with the present crime in the community and the perception that the proposed facility will contribute to an increase in crime, a saturation of facilities in the Ward, and will be unable to meet Building Code requirements. These residents and commercial property owners were also concerned that the facility would produce a negative perception which would adversely affect residential and commercial properties.

22. By letter dated December 7, 1993 and through testimony at the public hearing, the Capital Hill Association of Merchants and Professionals expressed opposition to the application. Emphasis was placed on the existing crime element in the area and the possibility of it increasing, the belief that the facility would add to the existing negative impacts on the commercial community and will create negative perceptions in the redevelopment of nearby public housing.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. There is no other property containing a community-based residential facility for five or more persons located within the same square as the subject property.

2. There is no other property containing a community-based residential facility for five or more persons located within a radius of 500 feet of the subject property.

3. The applicant is required to provide one off-street parking space for the facility. The applicant is able to provide two off-street parking spaces at the rear of the site. The area of the site is well-served by metrobus and metrorail service.

4. The applicant can meet all applicable code and licensing requirements prior to operating the facility.

5. Operation of the facility will not cause traffic congestion in the neighborhood because the staff will consist of 12 rotating persons with a minimum of two members available on-site at all times and a maximum number of staff at the premises not to exceed six persons at any one time.

6. The Board finds that the December 7, 1993 report of Advisory Neighborhood Commission (ANC) 6B to be the official report of the ANC opposing the application. The Board finds that it is not in agreement with the position of ANC-6B.

7. The operation of the facility as proposed, with conditions imposed by this order, will minimize the likelihood of any adverse impact on the community.

8. The perceptions of increased criminal activity in the community and adverse effects on residential and commercial property is without merit. No evidence supporting this contention was presented. However, the Board finds it necessary to review the operation of the facility after a reasonable period of time.

9. The Board finds Sasha Bruce Youthwork, Inc. to be a credible organization whose success in operating similar facilities provides some assurance that operation of the proposed youth rehabilitation home is likely to succeed.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking a special

exception to establish a youth rehabilitation home for eight persons on property located in a C-2-A District.

The granting of such special exception relief requires a showing through substantial evidence that the application can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the application will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The applicant must also meet the applicable provisions of 11 DCMR 358 governing youth rehabilitation homes.

The Board concludes that the applicant has met the burden of proof. The Board concludes that the applicant will provide adequate, appropriately located and screened off-street parking to provide for the needs of occupants, employees, and visitors.

The Board concludes that the proposed facility will meet all applicable code and licensing requirements.

The Board is of the opinion that the facility will not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.

The Board concludes that while there may be a number of other facilities located in Ward 6, the Board is bound by the Zoning Regulations which allow facilities to be approved if they are not within 500 feet of each other or within the same square.

The Board concludes that the application has been referred to the Office of Planning and other relevant District of Columbia departments and agencies. The Office of Planning has recommended approval of the application and other District of Columbia departments and agencies have either indicated support of the application or have not objected to the application. The Board further concludes that considering the evidence of record, it is capable of deciding the application without a report from the Metropolitan Police Department.

Finally, the Board concludes that granting the application is in harmony with the general purpose and intent of the Zoning Regulations and Map, and that it will not tend to adversely affect the use of neighboring property.

The Board concludes that it has accorded the views of ANC 6B the "great weight" to which they are entitled.

Based on the foregoing, the Board **ORDERS** that the application is hereby **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for a period of TWO YEARS.
2. The total number of clients/residents shall not exceed eight at any given time.
3. The number of staff on the premises shall not exceed six persons at any one time nor be less than two persons to provide supervision to the residents and to respond to emergencies.
4. The grounds of the facility shall be kept free of refuse and debris and shall be properly maintained. Landscaping shall be maintained in a neat appearance and healthy growing condition.
5. There shall be no loitering outside of the premises by facility residents, employees or visitors.
6. The applicant shall provide the residents of the area with the telephone number of an appropriate contact person who can be reached on a 24-hour basis for reporting any problems with any activity or conditions at the subject facility.
7. The applicant shall establish and maintain community liaison with Advisory Neighborhood Commission 6B to discuss and resolve any problems that may arise from time to time regarding the operation of the facility.
8. Parking for two automobiles shall be provided on the site.
9. Night lighting shall be provided on the exterior of the premises. The direct rays of such lighting shall be confined to the surface of the subject property.
10. Trash shall be picked up from the premises at least once per week.
11. The facility shall meet all District of Columbia fire, safety and health code requirements.
12. Regular recreation activities for the clients/residents shall be provided at the recreation area across the street from the facility and at the Eastern Boys and Girls Club. Clients/residents shall be escorted by staff to the recreation areas and shall be supervised at all times.

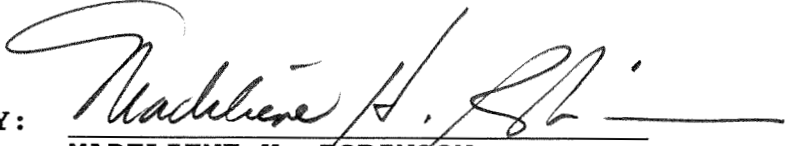
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13. The applicant shall install and maintain a window and door alarm system that will alert staff if a door or window is opened without authorization.

VOTE: 4-1 (Craig Ellis, William B. Johnson, George Evans and Angel F. Clarens to grant; Laura M. Richards opposed to the motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: MAR 16 1994

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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